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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/164,807	10/01/1998	WILLIAM D. CASTAGNA	33318/WWM/D2	7100

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EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/164,807

Applicant(s)

CASTAGNA, WILLIAM D.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 14-17, 19-30 and 32-33 is/are rejected.
- 7) ☐ Claim(s) 12,13,18 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claim(s) 1-2, 4-5, 7, 14-15, 24-28 and 32** are rejected under 35 U.S.C. 102(e) as being anticipated by Wolf (US 5,771,276).

Regarding **claim(s) 1**, Wolf discloses a method of personalizing voice messages to be used by a voice mail system (column 1, lines 17-19) comprising the steps of:

creating a plurality of sets of recorded messages wherein each message has a distinct mood, and wherein each set of the sets is identifiable by an agent, the sets being for interacting with the voice mail system (FIG. 1B, FIG. 1A and column 4, lines 1-35) [The user creates a plurality of menus, each menu includes a plurality of menu records, each record contains a number of voice templates which includes the characteristics and behaviors of the voice template element for a distinct mood of the menu];

presenting a user of the voice mail system with interactive inquiries to enable the user to identify the agent (FIG. 2 and column 4, lines 57-66) [The user uses the IVR

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system 26 with a plurality of graphical user interface which comprises a menu section 202 to be display for the user creating a menu session]; and

selecting a recorded message from the plurality of sets of recorded messages based on interactive inquiries between the user and the voice mail system, wherein the user identifies the set by choosing a particular agent message (FIG. 4 and column 5, lines 12-30) [The user accesses, through a series of appropriate menu picks a number of dialog boxes to create a new menu, a "Mailbox Properties" dialog box for creating a Mailbox record in the system].

Regarding **claim(s) 2 and 27**, Wolf discloses the step of personalizing the selected recorded message responsive to the information provided by the user (column 5, lines 12-30).

Regarding **claim(s) 4**, Wolf discloses the creating step comprises automatically creating a set of recorded messages corresponding to the user's own voice and speech patterns using voice recognition (column 4, lines 36-49).

Regarding **claim(s) 5 and 28**, Wolf discloses playing a sample of agent introduction messages from a plurality of the sets of recorded message while waiting for a identification entry from the user the identification to indicate a desired agent and therefore a set of messages associated with the desired agent (column 4, lines 20-35);

affecting a recorded message responsive to the identification entry made by the user (column 4, lines 36-49); and

affecting a recorded message based on a previous selection if no identification entry is made by the user (column 4, lines 36-49).

Regarding **claim(s) 7**, Wolf discloses conducting an interview with the user to determine an appropriate selection based on responses given by the user (column 4, lines 57-67).

Regarding **claim(s) 14**, Wolf discloses the plurality of sets of recorded messages is used for the system prompts to the user (column 5, lines 41-55).

Regarding **claim(s) 15**, Wolf discloses the interactive inquiries between the user and the voice mail system is determined by the system according to the user's competence in interacting with the system (column 4, lines 57-67).

Regarding **claim(s) 24**, Wolf discloses the user is a subscriber of the voice mail system (column 7, lines 16-26).

Regarding **claim(s) 25**, Wolf discloses the user is an outside caller (column 4, lines 20-35).

Regarding **claim(s) 26**, Wolf discloses all the limitations of **claim(s) 26** as stated in **claim(s) 1's** rejection and furthermore discloses an application module (12 on FIG. 1A), a management module (26 on FIG. 1B), a media module (24 on FIG. 1A) and a storage medium (30 on FIG. 1A).

Regarding **claim(s) 32**, Wolf discloses all the limitations of **claim(s) 32** as stated in **claim(s) 1's** rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim(s) 3, 33 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Hayes-Roth (US 6,031,549).

Regarding **claim(s) 3 and 33**, Wolf as applied to **claim(s) 2 and 32** above differs from **claim(s) 3 and 33** in that it fails to disclose the distinct mood is created by modifying at least one of the following: the speed, dialect, and pitch of the selected recorded message.

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However, Hayes-Roth teaches the distinct mood is created by modifying at least one of the following: the speed, dialect, and pitch of the selected recorded message (column 11, lines 56-67).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by adding the current mood as taught by Hayes-Roth.

The modification will allow the system to use of having a distinct mood such that the combination would provide possible physical and verbal behaviors to the messages.

Regarding **claim(s) 34**, Hayes-Roth teaches wherein the mood includes at least one of the following: happy, serious, verbose, terse, temperamental, and good-natured (column 11, lines 14-24).

5. **Claim(s) 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Hashimoto (US 4,850,005).

Regarding **claim(s) 6**, Wolf as applied to **claim(s) 5** above differs from **claim(s) 6** in that it fails to disclose a confirmation message.

However, Hashimoto teaches the step of confirming the selected recorded message by playing back to the user a confirmation message using the same mood as the selected message (column 5, lines 40-42).

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It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by adding a confirmation message as taught by Hashimoto.

The modification will allow the system to have a confirmation message such that the system would extract the data related.

6. **Claim(s) 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Nakatsu et al. (US 5,787,151).

Regarding **claim(s) 8**, Wolf as applied to **claim(s) 1** above differs from **claim(s) 8** in that it fails to disclose selecting a pre-determined recorded message based on identification of the user by voice recognition.

However, Nakatsu teaches selecting a pre-determined recorded message based on identification of the user by voice recognition (column 5, lines 31-39).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by adding the voice recognition as taught by Nakatsu.

The modification will allow the system to use of having voice recognition such that the combination would allow the user to use voice to change the message.

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7. **Claim(s) 9-11 and 29-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Johnson (US 6,005,928).

Regarding **claim(s) 9 and 29**, Wolf as applied to **claim(s) 1 and 26** above differs from **claim(s) 9 and 29** in that it fails to disclose a calling number using ANI.

However, Johnson teaches the selecting step comprises selecting a pre-determined recorded message based on identification of a calling number using ANI information contained in data received by the voice mail system (column 3, lines 38-46).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use a calling number using ANI of Johnson in the invention of Wolf.

The modification of the invention will offer the capability of selecting a pre-determined recorded message based on identification of a calling number using ANI such as the messages would be played according to the calling number.

Regarding **claim(s) 10 and 30**, Johnson teaches the selecting step comprises selecting a pre-determined recorded message based on identification of a calling number, using Caller ID information (column 3, lines 38-46).

Regarding **claim(s) 11**, Johnson teaches the selecting step comprises selecting a recorded message for a person associated with an entry in an address book (column 3, lines 6-20).

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8. **Claim(s) 16-17 and 22-23**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Pfeiffer et al. (US 4,785,473).

Regarding **claim(s) 16**, Wolf as applied to **claim(s) 15** above differs from **claim(s) 16** in that it fails to disclose sets of recorded messages differ in length and speed.

However, Pfeiffer teaches the plurality of sets of recorded messages differ in length and speed (column 9, lines 52-59).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by further adding sets of recorded messages differ in length and speed as taught by Pfeiffer.

The modification will allow the system to sets of recorded messages differ in length and speed such that the voice message segment would have a shorter length.

Regarding **claim(s) 17**, Pfeiffer teaches the user's competence is determined by a plurality of detection criteria monitored by the system (column 4, lines 57-59).

Regarding **claim(s) 22**, Wolf discloses the plurality of sets of recorded messages are used for making system-wide changes in level of messages for a particular user (column 5, lines 4-11).

Regarding **claim(s) 23**, Wolf discloses the plurality of sets of recorded messages is used for changing the system prompts at a local point in the system (column 5, lines 12-30).

9. **Claim(s) 19-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf in view of Pfeiffer and in further view of Mark (US 5,825,871).

Regarding **claim(s) 19**, Wolf and Pfeiffer as applied to **claim(s) 17** above differ from **claim(s) 19** in that it fails to disclose the errors made by the user.

However, Mark teaches detection criterion is the errors made by the user (column 49, lines 45-53).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by further adding the errors made by the user of Mark.

The modification will allow the system to detect criterion in the errors made by the user such that the unauthorized user would make the system unattractive.

Regarding **claim(s) 20**, Mark teaches detection criterion is the long pauses of the system without user response at the same point in the system on consecutive calls (column 29, lines 4-12).

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10. **Claim(s) 21** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf, in view of Pfeiffer and in further view of Pepper et al. (US 5,930,700).

Regarding **claim(s) 21**, Wolf and Pfeiffer as applied to **claim(s) 17** above differ from **claim(s) 21** in that it fails to disclose how quickly the user halts a message with a selection.

However, Pepper teaches a detection criterion how quickly the user halts a message with a selection (column 8, line 60 to column 9, line 2).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify Wolf by further adding how quickly the user halts a message with a selection of Pepper.

The modification will allow the system to detect criterion of how quickly the user halts a message with a selection such that pressing the appropriate button would mark the message.

#### ***Allowable Subject Matter***

11. **Claim(s) 12-13, 18 and 31** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

12. Applicant's arguments with respect to **claim(s) 1-34** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (703) 305-0981. The examiner can normally be reached on 8:00 AM to 4:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**GERALD GAUTHIER**  
**PATENT EXAMINER**

g.g.

January 27, 2005

  
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